

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES I. WYNN, SR.,

Plaintiff,

v.

GERDA B. CASSARA, GEORGE M. REIBER
CHAPTER 13 TRUSTEE, WILLIAM REITH, ESQ.,
AMERICAN TAX FUNDING LLC, CHESWOLD (TL)
LLC, TOWER UBW UII TRUST DBW, MARK
UPDEGRAFF AKA WARD REDUX LLC,

Defendants.

**NOTICE OF MOTION TO
DISMISS AND ENJOIN**

Civil Index No.:
6:22-cv-06354-DGL

PLEASE TAKE NOTICE, that Defendants American Tax Funding LLC, Cheswold (TL) LLC, and Tower UBW UII Trust DBW (collectively “Defendants”), upon the declaration of Chad W. Flansburg, Esq. dated December 6, 2022, the Memorandum of Law submitted on behalf of Defendants, and all the papers, exhibits, and proceedings herein, will move this Court before Honorable David G. Larimer, United States District Judge for the Western District of New York, at the United States Courthouse, 100 State Street, Rochester, New York, at a date and time to be set by the Court, for an Order (a) dismissing Plaintiff’s Complaint in its entirety with prejudice pursuant to Fed. R. Civ. P. 12(b)(5) for improper service; (b) dismissing Plaintiffs’ Complaint in its entirety with prejudice pursuant to Fed. R. Civ. P. 8(a) for failing to comply with pleading requirements; (c) dismissing Plaintiffs’ Complaint in its entirety with prejudice pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim; (d) dismissing Plaintiffs’ Complaint in its entirety with

prejudice for asserting claims that are barred by *res judicata* and collateral estoppel; (e) enjoining Plaintiff from filing any further related claims relating to the underlying foreclosure actions without leave of Court; and (f) awarding Defendants such other further relief as may be just and proper.

PLEASE TAKE NOTICE that answering affidavits or cross-motions, if any, are required to be served upon the undersigned in accordance with all Local Rules and Federal Rules of Civil Procedure.

Dated: Rochester, New York
December 6, 2022

PHILLIPS LYTLE LLP

By: /s/ Chad W. Flansburg
Chad W. Flansburg
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